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In re Application of  
CAMILLERI, et al.  
Application No.: 10/018,547  
PCT No.: PCT/GB00/02364  
Int. Filing Date: 16 June 2000  
Priority Date: 16 June 1999  
Attorney Docket No.: P32328  
For: NOVEL COMPOUNDS

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition Under 37 CFR §1.181(a) to Withdraw Holding of Abandonment" filed in the United States Patent and Trademark Office (USPTO) on 10 February 2003.

**BACKGROUND**

On 16 June 2000, applicant filed international application PCT/GB00/02364, which claimed priority of an earlier application filed 16 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 December 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 16 December 2001.

On 12 December 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an Information Disclosure Statement and a First Preliminary Amendment. A signed oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed.

On 26 February 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date and payment of the \$130.00 surcharge for providing the executed oath or declaration later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 06 January 2003, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that the reply received on 12/12/2001 was improper and that the application was abandoned as to the United States.

On 10 February 2002, applicant responded with the present petition accompanied by an executed combined declaration and power of attorney; a copy of a return postcard, a copy of a previously filed transmittal letter and a copy of an Express Mail receipt.

### **DISCUSSION**

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by applicant, title of invention, and the docket number. The receipt identifies the application number as "10,018,547." Among the items listed on the receipt is "Dec. & Power of Atty (3 pages.)" The receipt is stamped "533 Rec'd PCT/PTO 19 JUL 2002" across its face. Thus, it is clear that applicant filed an executed combined declaration and power of attorney on 19 July 2002. In addition, the postcard and transmittal letter authorize the deduction of appropriate funds from Deposit Account No.: 19-2570. As such, applicant's filing is considered to include a petition for a three-month extension of time accompanied by the appropriate petition fee. For the reasons stated above, it is proper to grant applicant's petition at this time and accept the copy of the combined declaration and power of attorney filed 10 February 2003 as a substitute for the combined declaration and power of attorney originally filed 19 July 2002. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have now been satisfied.

### **CONCLUSION**

For the reasons above, the petition under 37 CFR 1.181 is **GRANTED**.

As authorized \$1050.00 will be deducted from Deposit Account No.: 19-2570 (\$920.00 as payment of the three-month extension of time fee and \$130.00 as payment of the surcharge for providing an executed oath or declaration of the inventors later than thirty months from the priority date.)

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 06 January 2003 is hereby **VACATED**.

The application has an international filing date of 16 June 2000 under 35 U.S.C. 363 and will be given a date of **19 July 2002** under 35 U.S.C. 371(c).

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This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

A handwritten signature in black ink, appearing to read 'Derek A. Putonen'.

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